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Attorneys for Plaintiff
McKESSON CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

McKESSON CORPORATION, a Delaware
corporation,

Plaintiff,

v.

FAMILYMEDS GROUP, INC.,
f/k/a Drugmax, Inc., a Connecticut corporation,

Defendant.

FAMILYMEDS GROUP, INC.,
f/k/a Drugmax, Inc., a Connecticut corporation,

Counterclaimant,

v.

McKESSON CORPORATION, a Delaware
corporation,

Counterdefendant.

FAMILYMEDS, INC.,
a Connecticut corporation,

Cross-Complainant,

v.

McKESSON CORPORATION, a Delaware
corporation,

Cross-Defendant.

Case No.4:07-cv-05715 WDB

**DECLARATION OF KRISTEN E.
CAVERLY, ESQ. IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT
OR, IN THE ALTERNATIVE,
SUMMARY ADJUDICATION BY
McKESSON CORPORATION**

Complaint Filed: November 9, 2007
Cross-Complaint Filed: December 17, 2007

Motion Date: August 6, 2008
Time: 1:30 p.m.
Place: Ctrm 4
1301 Clay St., 3d Floor
Oakland, CA

1 I, KRISTEN E. CAVERLY, declare that I have personal knowledge of the following facts
 2 or know of such facts based on my review of the files and records maintained by my office in the
 3 normal course of business, and, if called upon to do so, I could testify competently thereto:

4 1. I am a partner at the law firm of Henderson & Caverly LLP, counsel of record for
 5 McKESSON CORPORATION ("McKesson") in this action.

6 **Authentication of Documents**

7 2. I have in my custody and control various pleadings that were filed in this case by
 8 McKesson and by each of FAMILYMEDS GROUP, INC., f/k/a Drugmax, Inc., a Connecticut
 9 corporation ("FM Group") and FAMILYMEDS, INC., a Connecticut corporation ("FM, Inc." and
 10 together with FM Group called "Familymeds"). Based on my review of such pleadings and papers
 11 that have been filed in this case, I know of my own personal knowledge that attached to the
 12 "Compendium of Exhibits" (the "Exhibit Compendium") as Exhibits G through L as listed below,
 13 are true and correct copies of the documents described in the second column below:

Exhibit Reference	Document
G	McKesson Corporation's "Complaint for Breach of Contract" filed on November 9, 2007 (Court's Docket No. 1.)
H	Famlymeds Group, Inc.'s "Answer to Complaint for Breach of Contract" filed on December 17, 2007 (Court's Docket No. 6.)
I	"Counterclaim for Specific Performance of Contract and Accounting; Cross-Complaint for Accounting" filed by Famlymeds Group, Inc. and Famlymeds, Inc. on December 17, 2007 (Court's Docket No. 6.)
J	"Amended Notice of Motion, Motion, Memorandum of Points and Authorities of McKesson Corporation Seeking to Dismiss: (1) Counterclaim for Specific Performance of Contract; and (2) Cross-Complaint for Accounting" filed by Corporation on January 14, 2008 (Court's Docket No. 14.)
K	"Order Re May 5, 2008, Case Management Conference" dated May 5, 2008 (Court's Docket No. 36.)

1 L “Answer of McKesson Corporation To: Counterclaim for Specific
2 Performance of Contract and Accounting; and (2) Cross Complaint for
3 Accounting” filed by McKesson Corporation on May 19, 2008 (Court’s
4 Docket No. 37.)

5 **Efforts to Obtain Joint Statement of Undisputed Facts**

6 3. In compliance with Judge Brazil’s Standing Order requiring the parties to meet and
7 confer regarding a Joint Statement of Undisputed Facts on McKesson’s summary judgment
8 motion, on Wednesday May 28, 2008 at 11:47 a.m., I sent an email to Messrs. Robert C. Gebhardt
9 and Matthew S. Kenefick, counsel for Familymeds with a proposed joint statement.

10 4. In that email, I informed Messrs. Gebhardt and Kenefick of the Court’s requirement
11 that the parties attempt to agree on a joint statement, and that McKesson’s motion for summary
12 judgment would be filed on June 4, 2008 and is set for hearing on August 6, 2008 at 1:30 p.m.

13 5. I requested that Messrs. Gebhardt and Kenefick reply no later than Monday, June 2,
14 if there are facts on the proposed joint statement to which Familymeds would not stipulate or if
15 Familymeds would want to suggest reworking of a particular fact to allow for stipulation. I also
16 stated that the facts to which the parties could not jointly agree would be moved to Section II of the
17 proposed joint statement.

18 6. On June 2, 2008, I spoke to Mr. Kenefick by phone. At that time, he and Mr.
19 Gebhardt had not reached an agreement as to any of the proposed joint facts.

20 7. On June 3, 2008, Mr. Keneflick and I exchanged at least three phone messages. Mr.
21 Keneflick did not indicate in his messages whether or not there were certain of the proposed facts
22 to which Familymeds would stipulate.

23 8. On June 4, 2008 at approximately 10:15 a.m., I again left a message for Mr.
24 Keneflick with no response. Later that day, I sent a revised Statement of Facts to Mr. Keneflick
25 and Mr. Gebhardt as McKesson’s intended filing given the lack of stipulation or communication

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1 from Familymeds. I indicated that McKesson would continue to be available to discuss stipulated
2 facts prior to Familymeds' opposition.

3 I declare under penalty of perjury under the laws of the United States of America and the
4 State of California that the foregoing is true and correct. Executed June 4, 2008 in Rancho Santa
5 Fe, California.

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7 KRISTEN E. CAVERLY